

## WASHINGTON STATE GAMBLING COMMISSION

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### MINUTES COMMISSION MEETING THURSDAY, SEPTEMBER 9, 1993

**Chairman Tull** called the meeting to order at 1:55 p.m. at the Best Western Lakeway Inn, Bellingham, Washington.

**MEMBERS PRESENT:**                      **ROBERT M. TULL, CHAIRMAN; COMMISSIONERS WANDA MOSBARGER, and PATRICK J. GRAHAM, and Ex Officio Member SENATOR RAY MOORE.**

**OTHERS PRESENT:**                      **FRANK MILLER, Director; SHARON TOLTON, Special Assistant to the Director; BEN BISHOP, Assistant Director, Licensing; NEAL NUNAMAKER, Deputy Director; JACKI FISCHER, Financial Investigations; SUSAN YEAGER, Executive Secretary.**

**Chairman Tull** said there are a series of items to consider on today's agenda and a number of rules on tomorrow's agenda, which will be gone over carefully at that time.

#### **STAFF REPORTS**

**Director Miller** gave an update on tribal negotiations, Class III gaming. He said there are 10 compacts to date. Negotiations have commenced with the Suquamish Tribe, which is located right by Bainbridge Island. The Yakima Tribe has requested negotiations for a compact. There are 19 or 20 total negotiations at this time. There have been articles in the newspaper lately regarding the Spokane Indian Tribe, which intends to open a casino without a compact. The Commission disagrees with this position. The Tribe intends to bring in slot machines and video poker. Director Miller is hopeful that it will be handled and resolved by the U.S. Attorney.

On the federal level with the issue of reopening IGRA, there has been some progress with the negotiations by the groups involved in reopening the Act. The agency has seen some of the draft documents and the state of Washington has a representative working on this from the Attorney General's Office. The challenge is that tribes would like states to do away with the Tenth and Eleventh Amendment defenses in exchange for clarification for the states on what is negotiable. He said he does not want to see the states become forced to negotiate, for example, slot machines just because the Lottery conducts Keno. There's no reason to reopen the Act unless clarifications are made to improve upon it and avoid litigation. The Governor's Association has come out with a statement to Senator Inouye saying they support the process and will stay in as long as the issue of specificity is addressed.

Another report **Director Miller** gave was on the Legislative Gambling Policy Task Force, which held its second meeting in Bellingham that included presentations from the state's Tribes, the supporters of charitable casino gambling, and the commercial industry as well -- card room and tavern owners, who are

seeking some expansion in the area of house-dealt black jack.

**Director Miller** said it was an educational meeting for the members of the task force. The next meeting, September 17, will focus on the feasibility of combining the Lottery, Gambling and Horse Racing commissions into one agency. There is the obvious issue of having a law enforcement agency that is also involved with promotion, which would be a conflict. He said he would attend the meeting to make a presentation on that issue.

**Chairman Tull** said he'd like to note that Senator Ray Moore, Ex Officio member of the Commission, is also attending this meeting, but is out of the room for a moment. He attended the study group meetings and may attend a portion of this meeting as well if his schedule permits. He called for the next item.

### **LICENSE APPROVALS**

#### **NEW LICENSES, CHANGES, WITHDRAWALS, and TRIBAL CERTIFICATIONS**

**Chairman Tull** said these items are supplied to the members of the Commission in the agenda packet by staff; he asked if there are any changes or amendments. Hearing none, **Commissioner Mosbarger** asked about page 5, Southwest Unlimited Inc of Mesa, Arizona; if they have are a manufacturer. **Mr. Bishop** said that's a commercial amusement game headquartered in Arizona, and they run route operations by cranes. **Commissioner Graham** asked a question asked about Ola Fou United Church of Christ and if they are the same Samoan group discussed in the past. **Mr. Miller** said yes, that's correct. **Commissioner Mosbarger** moved that the licenses, changes, withdrawals and tribal certifications be acted on in accordance with the recommendation of Commission staff as set forth in the agenda packet. **Commissioner Graham** seconded the motion, motion carried.

**Director Miller** said it will take 45 minutes to one hour to cover all the agenda items. **Commissioner Tull** said he'd like to change the agenda and take the formal review now and save the detailed review of rules until tomorrow if time runs out. **Chairman Tull** called for a brief recess so that Whatcom County Crisis Services can get ready for their review.

### **FORMAL REVIEW**

#### **Whatcom County Crisis Services, Bellingham**

**Ms. Fischer** said they are a charitable organization with a Class "L" bingo license, and also hold punchboard/pull tab, amusement games and raffle licenses. Their statement of purpose is "to make available a network of immediate and effective crisis intervention services for citizens of Whatcom County." They maintain a full-time administrative office in Bellingham. Services provided include programs in Crisis Intervention, Domestic Violence support, Rape Relief/Sexual Assault and Community Relations. Staff recommends recertification as a charitable organization. She introduced Charles Foster.

**Mr. Foster** said that Executive Director Katie Casey has a packet of some information to familiarize the Commission with what they do. He said they do not expect to take up the entire half hour, but that a number of people from the community have asked to speak their interactions with Crisis Services. There are 15 board members present; two of whom are volunteers who work in the program, 13 are broad based and work in the community. He introduced Marcy Elliott, Jack Curnow, Skip Williams, and Janice Luchino; and also Whatcom County Sheriff, Dale Brandland. The profit through the bingo program enables them to provide many services to the community. He said workers, staff and people they interact with will be

stepping forward to speak. Some have not arrived.

**Janice Luchino** is a board member and also a volunteer with the sexual assault program, which she's worked with for more than three years. She said they work with small support groups of women and give them the opportunity to explore new ways to deal with their own growth and healing with safety and confidentiality. One woman who came into a group was very timid and was helped greatly by the session on anger and how to dispose of it in a healthy way. Her way was to bring in a watch that her abuser gave her as a token of affection. She brought it in to smash. That activity was her turning point, and she then became a helper to the other members. **Ms. Luchino** said that was very rewarding to be a part of this woman's recovery and see her change so much. It usually takes a long time for the recovery process and it's nice to see somebody who came in timid and left feeling ready to conquer the world.

**Carol** said she is a volunteer with the sexual assault program. She said her day begins by picking up her pager so she can run errands, etc., and when a call from the crisis line comes to her, she goes to a pay phone and receives the message. The policy is that they never give out their last names or home phone numbers to clients; and meetings are held in parks or other public places instead of in their home. She calls the client to determine if a meeting is necessary immediately. If they are at the hospital and the rape has just occurred, she goes right to the hospital to be with that person. She waits in the lobby with family members who may be there if the client doesn't want her in the room. Each person in the program has their own advocate, she wouldn't be an advocate of the victim and spouse; the spouse would have his own advocate for confidentiality. She suggests counseling services, she does not herself do counseling but offers resources for the people to get in touch with themselves. She said the organization offers short-term help and will also help them utilize the system to get legal help if they decide to prosecute.

**Ted Czajkowski**, Assistant Superintendent for Bellingham Public Schools, said the students are sometimes direct recipients of services by this organization. Dating violence and acquaintance rape programs are offered by Whatcom County Crisis Services staff to the 10th graders in the Whatcom County school districts. Sexual harassment workshops are given to students and their parents to attend. His personal favorite is helping the students develop healthy relationships, which is also a topic addressed through these workshops. About 150-200 students a month attend. At the end of a typical class, the instructor asks how many students can relate what they learned about the criteria of relationships, and usually two to four out of 30 raise their hands when asked if they've experienced a healthy relationship as defined by this class. **Mr. Czajkowski** said they also work with the organization to provide students with emergency sexual assault response and referral services. He is pleased that the students have the services of the Whatcom County Crisis Services available to them.

**Pat Fabino** said she is from Western Washington University and is grateful for the sexual assault/rape relief services Whatcom County Crisis Services offers. She said their program has helped the University change their own program from a reactive approach to a proactive approach. Whatcom County Crisis has assisted in moving them at Western from a rather reactive, dark ages approach to sexual assault to one that is humane, compassionate and something that they can be proud of. Education, prevention and training are the most effective services they've received from Whatcom County Crisis Services. Talking about sexual assault, HIV, responding to crisis in life in general. Our staff receives their training services and students responsible for other students in the residence halls get trained, our police department as do our counseling and health services staff. The second area is policy development. This year we have moved into federal compliance and official statements of how they wish to respond as an institution to victims of sexual assault. The third area is advocacy, intervention and referral. Students who have experienced sexual assault have better access to their program and have built a coalition and now provide a campus sexual assault relief

center. She said Western Washington University feels gratitude to Whatcom County Crisis Center.

**Dave McEachran** said he is from the Prosecuting Attorney's Office. They receive help with domestic violence cases, and he provides the victims names to the crisis center. The organization helps the victims receive help and accompany them to court. They have better success with criminal assault cases that would have never been brought to court without the crisis service center. He said they are doing a excellent job.

**Don Pierce**, Police Chief, City of Bellingham, said he is here to talk about the value of crisis services so they can keep their bingo license and continue to help the community with their services. He said he thinks Whatcom County Crisis Services provides credibility to the Police Department in many things they do. He sees them as partners in making the community a better place. The crisis services center assists the Police Department in the community by giving credibility to the Police Department when something really does happen. He said this organization is a great example of the good that could be done.

**Dale Brandland**, Sheriff of Whatcom County, said he's interacted with WCCS for 17 years. He was a crime scene investigator and was always impressed with the caliber of people who arrived at the scene from the Whatcom County Crisis Services. They have a good relationship with the organization. They have George Maston who has been involved with sex abuse cases for the Sheriff's Department with Whatcom County Crisis Services. They provide him with places to interview people, with back-up support, and whatever George needs. He is a board member with the organization and has been for four years. It's good to know that the organization is always there when needed. He said he enjoys being on this board and they have enjoyed financial stability because of the bingo license.

**Mr. Foster** said that concludes the formal presentation. He told the Commissioners that what they've heard is attributable to their gambling licenses, which contributed 85 percent in funds toward their services. He thanked them for the opportunity to receive these funds and continue to offer their services.

**Chairman Tull** called for questions. **Commission Graham** commented that these hearings have quite a few objectives, and one is to question some of the figures presented. Another reason is to impress upon the organizations the importance of the board members' responsibility to watch the bingo operation and be sure it is a fair and well-run activity. He asked about their mortgage debt and the total amount. **Ms. Casey** said there is just \$6,000 left on their mortgage. **Commissioner Graham** said that is highly commendable. He also noted that the punchboard/pull tab figure seems small; **Ms. Casey** said bingo and punchboard/pull tab funds are allocated differently.

**Commissioner Mosbarger** noted that they have 145 volunteers and 33,000 clients; you have a little over 20 clients for each volunteer and asked why that is such a load for each volunteer. **Ms. Casey** said there are a lot of calls that come in on the crisis phone line.

**Director Miller** said this organization is very involved in the problem gambling area and that Katie Casey is on the state board of the Council on Problem Gambling. He wanted to compliment the group for the assistance they have given the Commission.

**Chairman Tull** asked the audience if they have any comments. **Jack Curnow** said the funds are actively managed and he's impressed with the accounting procedures. **Chairman Tull** said it is important that the organization be protected from misuse of funds. He commented that he is close friends with many board members. He said this organization is one of the most outstanding organizations and always gives good

presentations at its formal reviews. **Chairman Tull** moved, **Commissioner Mosbarger** seconded the motion. **Chairman Tull** called for a vote, motion carried with three aye votes. He called for a brief recess.

## **RECERTIFICATION REVIEWS**

### **Lake Washington Youth Soccer, Bothell**

**Jacki Fischer** said they are an athletic organization with a Class "M" bingo license, and also hold licenses in punchboard/pull tabs and amusement games. Their statement of purpose is "to promote, develop, organize, and govern the game of soccer for youth within the boundaries of the Lake Washington School District. Services are provided through eight clubs located in neighborhoods of the Lake Washington School District and include 7 recreational and the other is an advanced development club which promotes higher level of soccer competition for youth ages 12 to 18. The organization served approximately 5,000 clients last year and 375 coaches. Net gambling revenues totaled \$669,429, and the organization spent \$495,036 in support of their stated purpose.

Staff recommends recertification as an athletic organization.

**Commissioner Graham** asked about where is says, "current plans to purchase new facility with the community." **Ms. Fischer** said it should read "within the community." She said the organization has established a development fund and is currently pursuing the purchase of new fields.

### **Big Brothers/Sisters of Whatcom County, Bellingham**

**Ms. Fischer** said they are a charitable organization with a Class "J" bingo license. They also have licenses in punchboard/pull tabs and amusement games, and have recently upgraded the amusement game license to a Class "E". Management, program staff and 140 volunteers support and guide children ages 6-14 through the challenges of life. Volunteer big brothers and sisters and children are matched and then spend four hours per week participating in activities to build friendships. The organization served approximately 3,955 client and volunteer contacts, made 44 new matches and served 140 total matches during the last fiscal year. Net gambling revenues totaled \$496,531, and they spent \$350,672 in support of its stated purpose. Most recently, the organization broke ground for its new facility and hopes to have it completed by November. Staff recommends recertification as a charitable organization.

### **Boys/Girls Club of Snohomish County, Everett**

**Ms. Fischer** said they are a charitable organization and hold a Class "H" bingo license and also punchboard/pull tab license. They have six clubs throughout Snohomish County and they have a fulltime administrative office in Everett that provides centralized services to each club. The organization's purpose is "to provide counseling, sports, recreation, and social programs to boys and girls throughout Everett, Snohomish County, and neighboring counties; and to offer aid and assistance in the furtherance of the general welfare of all youth." Net gambling revenues totaled \$104,599 for the year; and net bingo revenues totaled \$75,565. They spent \$789,736 in support of their stated purposes. Last year, in September 1992, they suffered a fire. The final inspection of its new bingo facility in Mukilteo was complete in April 1993. Staff recommends recertification as a charitable organization.

### **Boys/Girls Club of Whatcom County, Bellingham**

**Ms. Fischer** said they are a charitable organization with a Class "I" bingo license. The organization operates a multipurpose recreational facility in Bellingham, and program services are conducted "to provide behavior guidance and to promote the health, social, educational, vocational, and character development of youth," ages 5-18. They served approximately 2,500 boys and girls during the last fiscal year; bingo net revenues totaled \$311,851, and they spent \$256,356 in support of their stated purposes. Staff recommends recertification as a charitable organization. **Commissioner Graham** asked about the front page where it states types of services provided it seems vague. They have a recreational facility and they sponsor various sports activities. He asked what the recreational and sports activities are specifically. **Ms. Fischer** said it's a community club for boys and girls and they also have a pre-teen torch club, a weight and work-out room and conduct a drug and alcohol program. **Chairman Tull** said he is familiar with the group and they have some leagues within the club plus they field a variety of teams. **Chairman Tull** asked for any other questions on the Boys and Girls Club of Whatcom County.

**Chairman Tull** said that concludes the reviews in the Commissioner's packet and suggested a motion; **Commissioner Mosbarger** moved to recertify (named all) all four of the organizations reviewed as documented in the packet in accordance with staff recommendation; **Commissioner Graham** seconded the motion, motion carried with three aye votes.

### **REVIEW OF FRIDAY'S AGENDA**

**Chairman Tull** said there has been discussion on how much of the agenda to cover today because there is so much. He asked for an overview.

**Ms. Tolton** said that there will be no additional staff reports tomorrow. She said there will be a request for amendment to the Tulalip Tribal/State Compact for Class III gaming, which asks for bumping Phase 2 at 12 months as opposed to 18 months, including an additional non-profit table at Phase 2 and annualization of the 80 hours per week that is specific in both the Tulallip and Nooksack Compacts. All these changes are consistent with recent Compacts signed by Governor Lowry. She pointed out one additional change; the first amendment was provided by the Tribe. The one entitled Attachment A includes one line at the end of section H. Staff requested of the Tribe that we include there that the Tribal Gaming Agency will provide to the State Gaming Agency (Gambling Commission) on a quarterly basis a schedule indicating the hours of operation at the Class III facility. That is also consistent with recent compacts and provides our staff the ability to adjust our manpower in advance.

**Ms. Tolton** said Item four is a petition from Sugarloaf Creations that includes four housekeeping amendments to Commercial Amusement Game rules. In addition, there are a number of rules on tomorrow's agenda. The highlights of the changes proposed in item 4 are Class A premises non-profit or charitable amusement game licensees can allow Class B and above licensee to operate amusement games at their premises. Also rent to be paid on a percentage basis; the percentage being a minimum of 22% if a charitable organization is involved. There are a number of housekeeping changes also. The rules following this are on the agenda for the first time and include a number of rules related to bingo, which will be gone over later. Item 8 on the agenda is proposed by staff in cooperation with the Washington State Licensed Beverage Association. This provides for a test for commercial punchboard/pull tab operators that will reduce the retention period from four months to two months. The monthly records must be completed 15 days after the end of the month and licensees wishing to participate in the test must request approval from the Director.

**Director Miller** clarified the reason for the amusement games set up in the back of the room. **Mr.**

**Nunamaker** said there have been a number of games presented to staff as skill games lately, and he brought them to show the Commissioner the prevalence of these games. He brought them for sharing, but they have all been denied. They are not viewed by staff as games of skill. **Director Miller** said operators must classify their games in certain groups, and if the agency finds a game that does not fit a legal definition, then it is denied.

**Director Miller** said the Commission is finally coming up with a definition of charitable non-profit organizations that should benefit from the privilege of a gambling license. Part of the new procedure is new rules being introduced specifically defining terms. The second part of that has to do with integrity of the industry. The people that make the paper for bingo have never been licensed for manufacturing bingo paper and that will change under the new rules introduced on this agenda. It has been an area that has needed to be addressed for a long time, and it is a long process. It requires class "G" and above to do away with hard cards. This gives a much cleaner audit trail for the agency to follow. He said that Mr. Bishop has put in many hours on these rules and has contributed a great deal to the writing of these rules. **Chairman Tull** said he was very impressed with the way these rules were written and with how cooperative staff has been with the licensee group in forming these rules. **Mr. Bishop** said it has been gratifying to see progress. **Director Miller** said there have been some games that have deficiencies that will now have to be corrected under these new rules. **Chairman Tull** said the good organizations that come through the review process won't have to change a thing, because they already use these guidelines. **Director Miller** said the Commission has a responsibility to make sure the money these organizations make through gambling actually gets to the charities and is used correctly, which is the reason the Commission was formed. **Chairman Tull** said the rest of the rules will be gone over in detail tomorrow. **Mr. Bishop** said there will also be some language changes that have occurred since the rules were written. Staff will highlight the changes on the Commissioner's copies so they can easily find the changes.

## **GENERAL DISCUSSION**

**Director Miller** said the next task force meeting will be a discussion on combining the agencies as suggested by Senator Skratek. **Commissioner Graham** said he doesn't understand the Senator's reasoning but that it must be for efficiency. The task force seems to already agree that the Gambling Commission and Lottery Commission would not make a good marriage. He said the Horse Racing Commission is now in limbo, and a good place for them might be the Department of Agriculture, because their mission is to protect the horses. Washington State is the fourth largest raiser of thoroughbreds for horse racing. **Director Miller** said the Gambling Commission's mission is to keep the criminal element out of gambling. To all public policy to be met. **Commissioner Mosbarger** said the Lottery's is to raise revenue; **Director Miller** said the Lottery's mission is to maximize profits. They are a marketing agency. **Chairman Tull** said it is up to the Legislature to decide which agencies should merge, but that his personal view is that it would not be a good thing to do. The Gambling Commission should not be involved in deciding which lottery games to use to bring revenue to the state. He said he enjoyed the opportunity to sit in on the last task force meeting and that Commissioner Graham did a fine job. **Commissioner Graham** said the task force is learning about a lot of things they did not know existed in this state. He said they were not very impressed with the Canadian casino model for use in this state. **Director Miller** said it's a good program but might not be good for this state.

**Commissioner Mosbarger** said she recently had lunch with Senator Betty Jo Sheldon and with Representative Barbara Holm this last month. Both of them expressed a real concern about the amount of power put into an organization when the Lottery and Gambling are under one Commission. **Chairman Tull** said he would dig into his old files and find what occurred the last time the Legislature considered merging

the agencies. **Commissioner Graham** said he was sure he didn't still have those files because he thought the idea was put to rest for good at that time. He said he was surprised it came up now. **Director Miller** said combining agencies for efficiency is a good idea, but the Lottery and Gambling commissions have entirely different missions and clients. Of the 3,000 or 3,200 lottery locations, there are fewer than 40 are also under the Gambling Commission jurisdiction.

**Director Miller** said in looking at efficiency in government, there has been some concern about the monthly two-day Commission meetings, and that some of the Commission meetings could be held on one day instead of two, because there was very little to go over. **Chairman Tull** said that the problem with one-day meetings has been that no matter where the meetings are held, half of the Commission must travel across the state. It is difficult for the Commissioners to travel to and from a meeting in one day. Going to a one-day a month meeting, the problem would be knowing far enough in advance which meetings will only require one day. In locations where there is quick access via airplane, maybe one day would work. **Director Miller** said that some of the study groups have gotten smaller and that maybe meetings every other month for them would be better. **Chairman Tull** asked Commissioner Graham what he would think about a one-day meeting in SeaTac. **Commissioner Graham** said that during the Winter months, traveling is unsure because flights may be cancelled due to fog or snow in the morning. **Chairman Tull** said it should be balanced. One thing to look at is the agenda. The staffing could be pared down to even a lesser number when there aren't a lot of items on the agenda. **Chairman Tull** asked what the entire expenditure for all Commission meetings last year was; **Director Miller** said he doesn't have that figure. **Commissioner Graham** said last month's meeting could have been just one day. **Director Miller** agreed. **Chairman Tull** asked what effect cancelling a meeting date on short notice has on the scheduling process; **Susan Yeager** responded that most hotels require that a contract be signed and honored unless cancelled at least a month in advance or they charge anyway.

**Chairman Tull** said there isn't enough immersion and learning by the commissioners when there is only a one-day meeting. So often, members must travel the day before the meeting anyway, so it makes sense to meet on the day they arrive. **Commissioner Mosbarger** said she's been on the Commission one year; **Chairman Tull** said it takes new commissioners a long time to get their feet on the ground. **Director Miller** suggested going to a one-day meeting every other month. Final action on rules can be reserved for two-day meetings. He said there are ways to make it work. **Chairman Tull** said another advantage of a two-day meeting is more interaction with staff and licensees. He said when he's come and gone from a meeting in one day, there is not enough time to have contact with constituencies and staff members. Then again, it is a shame to take two days for a half hour meeting.

**Ron Sellar** said he appreciated frugality with the license fees.

**Director Miller** said that right now there is a lot of scrutiny toward state government, and even though the Commission is not required to do so, if the licensees came forward and said they want the two-day meetings then certainly we would go forward.

**Chairman Tull** said the Commission is a public body and has an obligation to conduct its business in public. Drastic changes carry far more consequences than savings.

**Commissioner Mosbarger** said this is her fourteenth meeting, and she just barely knows all the key players involved in licensing. She thinks if you change to a one-day meeting, new commissioners won't learn all the key players in the industry. **Director Miller** asked about every other month and have those one-day meetings at Sea-Tac and Spokane. **Commissioner Graham** asked Susan what the penalties would be if



we scheduled a two-day meeting and only had one day. **Susan Yeager** said she wasn't sure but the fees are usually about \$300 for a full day; the second day is usually only a half day so we only get charged half of that fee.

**Chairman Tull** said another problem with an infrequent schedule, it makes having hearings difficult. He said we should consider cutting back on the meeting when it appears to have little or nothing on the agenda.

**Commissioner Mosbarger** asked what the room cost would be if we don't have hotel rooms. **Susan Yeager** said it would be the same because we don't have a large enough block of rooms. We usually have 12 rooms reserved. **Director Miller** noted the new regulations which state if you don't use a state facility you have to justify why. It's all part of the new budget package.

**Chairman Tull** adjourned the meeting until Friday morning at 10:00 a.m.

## WASHINGTON STATE GAMBLING COMMISSION

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### MINUTES COMMISSION MEETING FRIDAY, SEPTEMBER 10, 1993

**Chairman Tull** called the meeting to order at 10:05 a.m. at the Best Western Lakeway Inn, Bellingham, Washington.

**MEMBERS PRESENT:** **ROBERT M. TULL, CHAIRMAN; COMMISSIONERS WANDA MOSBARGER, PATRICK J. GRAHAM and ARDITH DIVINE.**

**OTHERS PRESENT:** **FRANK MILLER, Director; SHARON TOLTON, Special Assistant to the Director; BEN BISHOP, Assistant Director, Licensing; NEAL NUNAMAKER, Deputy Director; JONATHAN McCOY, Assistant Attorney General; and SUSAN YEAGER, Executive Secretary.**

**Chairman Tull** said the agenda is quite full. He said there are no ex officio members here today. He introduced audience members from the Nooksack Tribe; Tribal Gaming Chairman, Harry Cooper; and Economic Development Director, Pete Villa. **Chairman Tull** reminded the audience that there will be time after all the rules have been reviewed by staff for audience members to offer comments to the Commission.

**Director Miller** said there are no staff reports today. **Chairman Tull** asked if there were any changes from the published agenda; hearing none he called for approval of the minutes of the last meeting.

#### APPROVAL OF THE MINUTES FROM THE AUGUST 12-13, 1993, MEETING

**Commissioner Mosbarger** moved for acceptance of the minutes from the August 12 and 13, 1993, meeting as set forth as printed in the agenda packet. **Commissioner Graham** seconded the motion, motion carried.

#### ADOPT OR AMEND RULES

**Sharon Tolton** said item number three is a request from the Tulalip Tribe for amendments to their Tribal/State compact. There are two amendments, the initial one was received from the Tribe, and the second one that says "attachment A" is the final draft of that proposed amendment. The very last lines "The Tribal Gaming Agency will provide to the State Gaming Agency, on a quarterly basis, a schedule indicating the hours of operation of the Class III facility" was added at the request of the state, and the Tribe has agreed that this would be the final proposal for Commission approval. This amendment addresses two phases in the nature and scope of gaming, and the Tribe asks that, instead of waiting until 18 months of operation has passed, they request that the increase to 31 tables ( plus one non-profit table) be moved up to 12 month, which is consistent with the most recent compacts that have been approved. The Tribe wants to add the extra non-profit table, which is consistent with later compacts and would make the total number of tables 32. They are also requesting the annualization of hours. They currently have 80 hours a week of operation and the annualization would allow a shifting of hours for holidays, etc. The potential is that, with

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other tribes starting up their gaming operations, the Tulalips may wish to offer more hours during the summer when there is more activity in the area. These three provisions are all consistent with later compacts. Staff recommends approval so that the amendment may be forwarded to the Governor's office for signature. **Chairman Tull** asked if any of the commissioners had questions; and if anyone in the audience would like to address this proposed amendment. Seeing no one, he said that the Commission has never dealt with compact amendments at the meetings in the past, and he encouraged anyone who wanted to come forward to do so. No one came forward, so he called for a vote.

**Commissioner Graham** said he approves passage of the amendment, except he would like the one charitable table to be stricken from this amendment before he moves for approval. He said he feels like the state is being bought off, and that the IGRA's purpose is to help the tribes first. He said charity begins at home and all funds should go to the Tribe for its use. He said that in Canada, the casinos have a portion of the profit going to charity. In his view, this is professional gambling saying if they can have casinos, then they'll give to charity, and that's a buy-off. He said the card room operators in the state have said they would like to be able to advance by having an extra table for charity. He said even the bingo industry is now considering asking for one extra game to go to charity, and bingo is already charity. **Commissioner Graham** moved for approval with that portion of the amendment asking for one non-profit table stricken. **Director Miller** said he understands Commissioner Graham's decision. He said that there are three or four Tribes that have this in place already. The Tribes are concerned that the tribal casinos may infringe on the fundraising activities of charities in the area, and this extra table is to offset that impact. **Commissioner Graham** said that if the Indian Tribes feel like they'd like to contribute to charity, they should do so voluntarily rather than have it be mandated by a compact. **Director Miller** said it's partly for accounting purposes and for simplicity purposes. The amount of money will vary from tribe to tribe. He said he thinks it's important to understand the rationale behind it. **Chairman Tull** asked for a second, hearing none, he asked for another motion. **Commissioner Mosbarger** moved for approval of the Tulalip amendment as written, **Commissioner Divine** seconded the motion. **Chairman Tull** asked for further comment. He said if the tribes had their own way, some would probably prefer to have no limits on the number of tables, in which case they would probably opt to give to charity as Commissioner Graham suggest, but that this is a reasonable response to efforts to negotiate number and compromise. Vote was taken, motion carried with three aye votes; **Commissioner Graham** opposed the motion. **Chairman Tull** said this amendment is now forwarded to the Governor for consideration and signature. Notice will also go to the Legislature for comment.

#### **4. Commercial Amusement Games**

##### **PETITION**

**Director Miller** said the first item under commercial amusement games is a petition from Sugarloaf Creations, and Randy Fagundo will make a presentation as the petitioner. He said rule allows for revenue sharing so that a percentage of funds will go to the charities, so that the charities will not be at risk for losing funds by the cranes taking away funds from their activities. Staff supports passage. The petitioner seeks amendments to:

- A. Amendatory Section **WAC 230-04-135**  
**Commercial Amusement Games-License Required**
- B. Amendatory Section **WAC 230-04-138**  
**Commercial Amusement Games-Authorized Locations**
- C. Amendatory Section **WAC 230-08-060**

### **Commercial Amusement Game Records**

D. Amendatory Section **WAC 230-12-020**

### **Gambling Receipts Deposit Required By All Bona Fide Charitable and Nonprofit Organizations--Exemptions**

E. Amendatory Section **WAC 230-20-670**

### **Commercial Amusement Game--Operating Requirements**

F. Amendatory Section **WAC 230-04-201**

### **Fees**

**Randy Fagundo**, President of SugarLoaf Creations Incorporated, thanked the Commission staff, Ben Bishop, Sharon Tolton and Shanna Lingel in particular, for helping prepare this petition. He said his company operates in many non-profit places outside of Washington State, and he said his company would like to operate within charitable and non-profit facilities like they do in other states. The current Washington State rules do not allow for this and he is requesting rule changes. **Chairman Tull** called for public comment for or against this proposed rule; seeing no one, he closed the hearing opportunity and called for a vote. **Commissioner Divine** moved for final adoption of the petition, **Commissioner Mosbarger** seconded the motion. **Chairman Tull** said he appreciates the very close working relationship that has existed between the petitioner and staff in dealing with issues raised, and he asked for any other questions from the Commission. Vote was taken; motion carried with four aye votes.

## **5. Commercial Amusement Games**

**Deputy Director Nunamaker** said the last rule amendment, under "H",

H. Repealer **WAC 230-20-605**

### **Types of Amusement Games Authorized**

deals with the requirement to list the types of amusement games approved by the Commission, and that list is quite long now and there are about eight pages of new amusement games to add, and the old list includes games that are no longer in existence. The best approach is a total revision and keep a more general list of characteristics of certain games. A staff committee worked on this and drafted WAC 230-20-508 (item C) so that not every single ball toss game, for example, would have to be listed. The other changes are minimal, and the major changes occur in item C.

A. New Section **WAC 230-02-511**

### **Attended Amusement Game Defined**

B. New Section **WAC 230-02-514**

### **Coin or Token Activated Amusement Game Defined**

C. New Section **WAC 230-20-508**

### **Authorized Amusement Games - Types, Standards and Classifications**

This rule contains all the aspects that were in the original rule with one change, that if the game falls within the grouping of an already authorized group, it would not have to be submitted for approval. A new game with a totally different concept that didn't fall within a category would require submission. The second change is to remove "cake walks" and "fish ponds" from the rule. These rules were mailed to all the amusement game operators in the state on two separate occasions and have been staffed by the agency. **Mr. Nunamaker** said he met with the amusement game operators in February. The one area that is still in

here that the amusement game operators ask be removed was section A, fish ponds, "cake walks and fish ponds with hidden prizes may only be operated at school carnivals by bona fide charitable non-profit organizations." The operators would like to be able to run a fish pond with the traditional fishing pole over the screen and attach a prize, which they are currently prevented from doing. He said this is a minor change and staff supports it.

D. New Section **WAC 230-20-509**

**Amusement Games - Classification to be Assigned by Operator**

E. Amendatory Section **WAC 230-20-615**

**Amusement Games - Material Degree of Skill Required - Standards**

F. Amendatory Section **WAC 230-20-630**

**Amusement Games - Fees, Rules, Prizes, and Variations in Objects to be Posted - Fees to be Paid in Cash or Script - Prizes Not to Differ From Those Posted**

G. Amendatory Section **WAC 230-20-700**

**Coin Activated Amusement Games - Standards**

**Mr. Nunamaker** said the only other change that may need to be looked at more closely is the list of locations of these coin-activated amusement games. They have to have a certain standard for their coin-in meters and the petition just passed adds a new area that would need to be added to this. The line "locations authorized under WAC 230-04-138 (1) (f), (g), (i), (j), or (k)" would need to be amended to include (l). The other rules are basically definitions or clarifications within existing rules to bring them in line with the new proposal for classification.

**Dale Walker**, Amusement Services, residing at 23021 - 40th Drive N.E., Arlington, Washington. He said he's generally happy with the new set-up, but has a concern about having to make a determination on classifying one of his expensive machines into a category that the Commission might end up disagreeing with, and that would be costly to him. He asked if there was going to be some sort of a pre-approval process where he can describe the game to see which category it would fit into before he invests in it. He said that the process in the past has been a physical inspection of the machine before it's purchased. He's hoping this new rule will not lead to him spending \$10,000 on a machine and then have an inspector come in and say it's turned down. **Commissioner Graham** asked if he's ever had a machine turned down; **Mr. Walker** said yes. **Chairman Tull** requested that Mr. Walker talk to staff about the mechanics of the process and try to reach a more suitable solution, and if one cannot be reached, he is welcome to come before the Commission again with a proposal. **Mr. Walker** asked if the final determination would be made today; **Chairman Tull** said no, this is just the beginning of the process; it will be subject to two more hearing opportunities and written comments. **Commissioner Mosbarger** moved for filing; **Commissioner Divine** seconded the motion (as amended by Mr. Nunamaker), motion carried. **Chairman Tull** said he was sure Mr. Nunamaker would talk to Mr. Walker to see if this concern could be straightened out to everyone's satisfaction.

## **6. Regulation of Nonprofit Organizations**

**Director Miller** said the next item, number six, is the portion of the non-profit packet that was highlighted before the Commission yesterday. He said this is the result of approximately four years of reviews. There has been a question about how much of the revenue should be required to go to charity, how much should go to the non-profit's purpose and what formula should be used to determine if the proceeds are going to the correct place. The compromise reached in 1989 was the certification and review process where each organization comes before the Commission once a year to demonstrate what they've done with the gaming proceeds. This process has resulted in a clearer view for the Commissioners of what is happening with these gambling funds. It is also an opportunity for the organizations to hear from the Commission what is

expected of them, especially in the area of organizational structure and accountability. In looking at where the industry is going, there is the need to find a balance between industry interests and Gambling Commission and state of Washington interests. This packet is a model with the focus on the legitimacy of non-profit organizations. It defines standards for determining which organizations qualify to benefit from charitable gaming. These standards are needed by the agency to go after those organizations that do not qualify or deserve to benefit from certain types of charitable gaming.

**Director Miller** said the first three -- A., B., and C. -- are definitions that never before existed, but are necessary in order to make this process work.

A. New Section **WAC 230-02-108**  
**Gambling Proceeds Defined**

He said this defines "gambling proceeds" and where it is going. There is a two-part test, the first relating to monies, "All monies remaining from the operation of any gambling activity after payment of prizes and necessary expenses." Those necessary expenses are defined, "...when the activity cannot be operated without such or they improve the overall profitability of the activity..."

**Mr. Miller** said the assets are also looked at and it must be demonstrated where the money went.

B. New Section **WAC 230-02-183**  
**Active Member Defined**

This addresses active member to determine the legitimacy of a charitable/nonprofit organization. **Director Miller** said he thought that last year's legislative action amending the statute to give the Commission the flexibility to look at the issue of wages also made mandatory the definition of "active member." **Mr. Bishop** said no, he didn't think that was part of the bill, but that it's always been a requirement for determining charitable/non-profit, and it's always been the ability of the Commission to have the authority to define an active member. **Mr. Miller** said there have been some problems over the years with a few organizations that have named members who were not active in the organization, did not even know what the organization did and haven't been to a meeting in five years. This change requires that each voting member know, in detail, the purpose and activities of the organization. Specifically, it says the member must meet requirements including "has maintained a level of communications with the organization that would allow them to demonstrate an in-depth knowledge regarding the activities" to show that they are a true member. Statute requires 15 active voting members. **Chairman Tull** asked about when cities and towns are licensees. **Director Miller** said he is unsure, but that staff would probably have to look at the management. Staff will check into that and report back to the Commission with an answer later.

C. New Section **WAC 230-02-278**  
**Program Services Defined**

Providing transportation to and from a bingo hall would not be considered a program service. This rule defines services as "providing care, support, or assistance to individuals, and/or sponsoring or conducting activities that directly relate to a charitable or nonprofit organization's stated purpose when such services/activities are..." The criteria is set forth as, "directly provided to the public or the organization's members through programs operated by the organization or indirectly provided by making contributions to individuals or to other service-providing organizations for the charitable use of public organization's members or funding scholarships or sponsoring activities..." This covers every way to provide program services.

D. Amendatory Section **WAC 230-04-024**

## **Bona Fide Charitable or Nonprofit Organizations--Minimum Qualifications--Restrictions--Definitions.**

**Mr. Miller** said this changes the qualification process and requires conclusive evidence that they are operating for the purpose of the charity and not just for gambling purposes. He said the first few lines are, "All applicants for certification to conduct gambling activities as charitable or nonprofit organizations must provide conclusive evidence upon initial application and annually thereafter that they are qualified under the requirements of the statute and formed and operated for purposes other than to conduct gambling..." He said if all the money goes to salaries then the question becomes is the organization in business strictly for gambling purposes. There is also a requirement as to how much money will go to program services.

**Mr. Miller** said the next section incorporates the statutory language and expands on it. Number two states, "must be organized and continuously operated for at least twelve months prior to submission," which is required by statute. This rule defines "continuously operating." Number three says there must be fifteen active members and that's defined. Number four is critical in that it defines "significant progress" toward its stated purpose. Number Five addresses wages and states wages must be necessary to economically conduct the operation and must be comparable to reasonable wage scales for similar positions, and "similar positions" is defined. On a percentage basis, the wages can not be tied to how much profit is made in the bingo game. **Chairman Tull** read where it says, "not directly or indirectly related to the level of gambling receipts," and asked if someone comes in and turns the bingo game around from no profit to a large profit, shouldn't they be allowed to have a pay raise as a reward for performance. **Director Miller** suggested taking out the word "indirect" to solve this point. **Chairman Tull** said it must be addressed so that the Commission does not interfere with the particularly independent and well-run boards. **Mr. Bishop** said the statutory language is "in part or whole," so that's how he came to "direct or indirect." **Director Miller** said he would consider that type of pay increase as indirectly connected to bingo profits and a matter up to the board, but that these guidelines are to stop those salaries that are extraordinarily beyond where it should be.

**Director Miller** stated that he would look into it. **Chairman Tull** said the statutory language does not need to be a model to use for writing new rules.

**Director Miller** continued reading the rest of this rule, Number six says "an organization must take positive steps to ensure the assets of the organization are protected from misuse, dedicated solely to the purposes of the organization, and do not inure to the benefit of private individuals," which has happened a few times in the past. The next portion says, "an organization must provide in its bylaws or, if incorporated, in its articles of incorporation, a statement..." on where the assets will go upon dissolution. Number eight is a unique compromise made with the industry, and it states that organizations "...should not accumulate excessive reserves in the form of cash or other assets not directly related to its organizational purposes. Organizations demonstrating excessive reserves may be deemed as being organized primarily for the purpose of gambling..." It goes on to define "organizational purposes." The term "excessive reserves" is defined as "an amount that is greater than the sum of the licensees current liabilities (debts due within one year), plus an amount that is not more than total expenditures for program services during the most recently completed fiscal year, plus an amount that is not more than the average net income from the combining gambling activities including any sales activities conducted in conjunction with the gambling activity, such as snack bar, for a three-month period..." "...funds transferred to an endowment or specifically restricted trust fund will not be treated as reserves for the purpose of this section if the following restrictions are observed..." This allows reserves but sets the standards for what is considered excessive, while also allowing a portion of the money put away for the future. He said this has always been allowed but is now written in rule form as a standard to follow.

**Commissioner Graham** asked about the meetings with the bingo people that brought about this packet; **Director Miller** said it's been about a nine-month process; **Commissioner Graham** asked about the \$2 million trust and if that figure was agreed upon in these meetings. **Director Miller** said yes, but these are

not cast in stone and that the director has the authority to raise these limits for individual games based on need and other circumstances. **Chairman Tull** asked what kind of corrective action will be taken; **Director Miller** said that if excessive reserves are found and they are deemed to be primarily for gambling purposes, the agency has the right to take administrative action against the organization and reduce the amount in the form of a fine or shut-down. He said the director can allow by petition organizations to go beyond that amount and if the director turns them down, the organization can appeal to the Commission, at which time a decision would be final.

**Director Miller** said the final part of this rule deals with the requirement that the organization maintain sufficient and current records to support the above requirements. This places the responsibility with the organization to maintain its records in a fashion that will allow for audit and compliance checks.

E. New Section **WAC 230-08-255**

**Bona Fide Charitable or Nonprofit Organizations--Significant Progress--Group II and Group III Licensees**

**Director Miller** said this is a new rule that resulted from the last four years of work. It talks about the burden on organizations to demonstrate that they are qualified to utilize gambling funds. The rule states that Group II or Group III bingo games must demonstrate that they have made significant progress toward completing their stated purposes as set forth in their application during a twelve-month period; in compliance with the following requirements shall be prima facie evidence: 1) that they've held elections, 2) held membership meetings, and 3) "that the organization has expended at least 60 percent of the gambling proceeds earned in its most recently completed fiscal accounting year by either directly providing program services or by purchasing capital assets necessary to provide future program services," such as building a new facility. He said reduction of principal on loans and interest expenses related to the purchase of program service assets shall be treated as program service expenses during the period they are paid. "The amount of gambling proceeds used to provide program services shall be computed by multiplying total program service expenses, less noncash expenses," which gets into some more technical areas. It then goes on to list different exceptions.

F. New Section **WAC 230-12-078**

**Bona Fide Charitable or Nonprofit Organizations--Responsibilities--Independent Management Control Structure Required**

**Director Miller** said this final rule defines board structure and there is one amendment to this that has been passed out. This is a new rule and it defines what is meant by independent management control structure. It states: "It shall be the affirmative responsibility of each organization, its officers and board of directors to ensure that the legislative intent regarding gambling is met. This responsibility shall be fulfilled by developing and maintaining an independent management control system," and goes on to list the requirements that must be met. This rule gives legitimacy to the organization. There have been cases in the past where there was a question as to whether certain people have the authority to act on behalf of the organization. An important part of this rule is that it requires the organization to maintain a written list of the delegation of authority. They must include "affirmative management and accounting controls that will ensure all funds and other assets directly or indirectly obtained with gambling proceeds are protected from misuse, dedicated solely to the purposes of the organization, and do not inure to the private use of any person." A critical portion of the rule states that program services provided to members of the public shall not be deemed to be inurement. Expenditures for necessary expenses, including salaries or wages, to perform those purposes are also not considered inurement. This gives the agency a more efficient way to monitor effectively.



**Director Miller** said that in paragraph two the organization must maintain an independent operating environment and a definition follows. There have been situations in the past where it has been difficult to separate the interests of the individuals and the organizations, and this rule will take care of that situation. There is an amendment to paragraph two where it talks about independence and any actions by officers or board members. The amendment adds "any of the following actions by officers, board members or supervisory employees that are not approved by the board of directors and documented in the official minutes shall provide a presumption of the lack of an independent operating environment." The rest defines "independent operating environment."

**Director Miller** said this has been educational and at times frustrating, for both sides, process and he complimented Mr. Bishop for working tirelessly on this effort. He also thanked the industry for their work and support. **Chairman Tull** called for questions and comments from the commissioners. He said this is a very significant piece of work, and there may well be changes, but the level of discussion is to be commended. He called for comments of audience members; **Debbie Scott**, Big Sisters Bingo and president of the Washington Charitable and Civic Gaming Association said the WCCGA organization would like to go on record as being in support of these rules.

**Chairman Tull** asked if the impact on small organizations has been explored. **Mr. Bishop** said most apply to all organizations, in general. The one that addresses significant progress in detail will affect only the larger organizations. Most of the statutory requirements apply to everyone and shouldn't have any major affect on the smaller organizations, it just adds clarity. **Commissioner Graham** moved for the filing of items 6A-6F with the amendments; **Commissioner Divine** seconded the motion. **Chairman Tull** asked about the schedule of implementing these rules; **Director Miller** said the goal is to have them go into effect in January. The petition passed earlier today would go into effect in 30 days, but the standard procedure now is to have rules go into effect twice a year, either July or January. A vote was taken, motion carried. **Chairman Tull** thanked everyone for their efforts and said this packet will move the process in the right direction. He said the efforts really began in 1985 when Commissioner Keefe wanted to focus on certain issues, and that has put into play a lot of the things that are now being drafted.

## **7. Licensing of Bingo Equipment Manufacturers & Distributors**

**Director Miller** commended Mr. Bishop for the hours he put into meeting with industry people and pulling this together. This set of rules brings bingo under the same licensing requirements and scrutiny that punchboards and pull-tabs are under. The bingo equipment segment of the industry has never been regulated, and this needs to be under the control of the Commission to weed out those who are not authorized to sell bingo paper and supplies. It will cover licensing of bingo paper, daubers, blowers, cards, boards, etc. There has been the potential of groups to profit that were not legitimately licensed which is inconsistent with the policy and intent of the RCW.

### **A. Amendatory Section WAC 230-02-210 Distributor Defined**

**Director Miller** said this defines who can distribute the product after it is sold by the manufacturer, and it requires that they obtain a completed piece of the equipment. In the past, there have been occasions where a distributor took a piece of equipment, transformed it and even put their name on it. This will no longer be allowed because that kind of activity makes them a manufacturer. It puts bingo equipment into the definition of distributor so anyone selling bingo equipment must now be licensed by the state.

### **B. Amendatory Section WAC 230-02-230 Manufacturer Defined**

**Director Miller** said this talks about adding bingo equipment to the license manufacturing requirement.

C. Amendatory Section **WAC 230-02-250**  
**Bingo Equipment**

Allows equipment that is already in use to be allowed. This bans distributors from discounting items like daubers and anything related to bingo (reusable and disposable bingo cards, electronic flash boards, player assistance devices such as bingo card minders, and the Fortunet system monitors) in order to get sales on pull tabs or other products with regulated pricing. He said the reason daubers and ink is on the list is because it could be very easy for a distributor to offer large discounts on daubers and ink if they buy paper or pull-tabs. An operator can still go to Costco or some other store to buy supplies and this rule does not affect that ability. It's only if they purchase things from a distributor they are also buying paper, etc. from. This also defines what is not considered bingo equipment and lists items such as furniture, tables, chairs, A/V equipment, computers, cash registers or common products they can buy that are not directly related to bingo.

D. Amendatory Section **WAC 230-04-110**  
**Licensing of Manufacturers**

**Director Miller** said this is on the first handout. He said this brings the licensing requirement to manufacturers of bingo equipment and also contains housekeeping changes. The amendment is the result of meetings Mr. Bishop has had with industry manufacturers. **Chairman Tull** said there is no reason to read the entire rule, and that this is just the beginning of the review process and a copy of the rule is in the record and available.

E. Amendatory Section **WAC 230-04-120**  
**Licensing of Distributors**

**Director Miller** said there is also an amendment to this item. In Washington state, a few distributors have been able to have exclusivity on selling bingo paper without being in violation, and this item would not allow that. There is an amendment found in the handout, and it is mostly housekeeping.

F. Amendatory Section **WAC 230-08-025**  
**Accounting Records to be Maintained by Distributors and Manufacturers**

**Director Miller** said this cleans up accounting procedures and adds bingo equipment to the list of items that must be reported.

G. New Section **WAC 230-08-040**  
**Sales Invoices--Minimum Information to be Recorded for Transfer of Gambling Equipment**

**Director Miller** said there is an amendment and a new section that allows for requiring certain minimum information be recorded when transferring gambling equipment. **Mr. Bishop** said this rule expands the requirements in 230-08-025 to include all bingo equipment. Disposable bingo cards have been added as a requirement, and other gambling equipment. The requirements are necessary for accounting purposes. **Director Miller** said that another rule proposed on this list says that, in bingo games at Class "G" or above, hard cards would no longer be allowed, only paper cards. This makes auditing easier. Mr. Bishop showed some hard cards and what they look like.

H. Amendatory Section **WAC 230-08-140**

**Quarterly Activity Reports by Distributors**

**Director Miller** said it adds bingo equipment to be reported on the quarterly report.

I. Amendatory Section **WAC 230-08-150**

**Quarterly Activity Reports by Manufacturers**

**Director Miller** said this adds the equipment being talked about, and also adds amusement games.

J. New Section **WAC 230-20-192**

**Standards for Disposable Bingo Cards--Definitions**

**Director Miller** said there is an amendment to this one. This will set forth standards and eliminate the existing problems with duplicate cards. The manufacturers have assured the agency that the issuing of duplicate cards will be minimal. If a duplicate card appears, the same numbers in the same spot and if that's a manufacturer's error, they will be liable for those winnings. If it's an error by the operator, it will be shared and they'll split the prize cost plus 50. The second time would be a full reimbursement. This is for the protection of the public.

K. Amendatory Section **WAC 230-20-240**

**Bingo Equipment to be Used**

Requires Class "G" and above to use disposable bingo paper cards or the electronically generated card systems. It prohibits the use of reusable cards and prohibits the use of duplicate cards and itemizes penalties if duplicate cards occur. **Mr. Bishop** made a correction. He said the rule summary printed states there is no opposition but there have been three responses in opposition to this rule. One of the letters has been passed out to the commissioners. Staff's response to them has been that this change protects the player. **Mr. Bishop** said he will supply the other comments in next month's packet.

L. Amendatory Section **WAC 230-20-241**

**Player Selection Games**

Clarifies how the games are to be played. It also addresses electronically-generated game cards and allows them to be used if certain conditions are met. He said it's more of a housekeeping proposal.

M. New Section **WAC 230-20-243**

**Hidden Face Bingo Games**

This is a new rule that sets forth requirements on this game and allows for cards to be sold after the numbers or symbols have been selected on specialty games.

**Director Miller** said these rules are also as the result of many meetings and a lot of dialogue on the subject. Staff is very supportive of these changes and asks that the Commission file them at this time for discussion.

**Chairman Tull** asked if there were any questions. **Director Miller** said there is an additional change to be addressed when the addendum comes up. **Chairman Tull** said if this is filed, there will be at least two more opportunities for the public to comment; seeing no one come forward, **Commissioner Mosbarger** moved for approval of filing; **Commissioner Divine** seconded the motion, motion carried.

**8. Punchboards and Pull Tabs**

#### New Section **WAC 230-30-998**

#### **Punchboard and pull tab retention requirements--Test**

**Director Miller** said this is a result of study group meetings with commercial operators and their request to reduce their retention requirements from four months to two months, due to the burden of keeping pull tabs in storage. This will be a test for any commercial licensees in the State. All they have to do is give written notification that they want to be allowed to try this. If they are currently on probation or are currently facing administrative charges, the director has the authority to refuse participation. The licensees must complete their records by the 15th of each month. If they are not accurate, in a random sampling, then the Commission will take the amount sampled, multiply it by twelve months and that's what it will be measured on. They also have the ability to go back. If they violate this rule and do not record accurate receipting, they will have to go from a four-month retention period to a six-month retention period for two years. The industry is supportive of this test.

**Director Miller** said this is not appropriate for charitable organizations, because there is more of a concern as to where the money goes in a nonprofit environment. **Jon McCoy** pointed out that it is written as one year, not two years as he said for the six-month retention period. **Director Miller** said that is correct, it is supposed to be for one year. **Chairman Tull** asked if anyone has questions; **Ms. Tolton** corrected a couple of typographical errors: under section two, administrative "changes" should be "charges;" on page two, the top sentence should read, "the gross gambling receipts for unrecorded boards or series shall be the maximum possible..." Under (7), it should read, "In addition to administrative actions that may be pursued," as opposed to "my." **Chairman Tull** noted the corrections and called for public comment.

**Ron Sellar**, Washington State Licensed Beverage Association, said this would alleviate a lot of problems like having to rent storage areas and will reduce fire hazard danger. **Commissioner Divine** moved to file for consideration, **Commissioner Mosbarger** seconded the motion, motion carried

#### **UNFINISHED BUSINESS**

**Chairman Tull** asked if there were any other unfinished items, or comments of the public or public officials. **Mr. McCoy** requested a five-minute executive session, since he was absent from the meeting yesterday; **Chairman Tull** said that, since Mr. McCoy will be present for the administrative hearing and an executive session will most likely follow to discuss a decision, they could go over pending litigation with Mr. McCoy at the same time. He said that Commissioner Graham has been updating the Commission on the work of the gambling policy task force, and that the next meeting will address the possibility of combining agencies -- the Gambling Commission, Horse Racing Commission and Lottery Commission -- into one. **Chairman Tull** said there was a discussion yesterday on the convenience or inconvenience of Commission meeting schedules and the different venues, and he asked the audience to think about those and the topic will be brought up again later for discussion.

#### **COMMENTS OF PUBLIC OR PUBLIC OFFICIALS**

**Andy Fernando**, Senior Planner for Upper Skagit Tribe and director of the Tribe's Gambling Control Commission, said he would like to address the issue of the amendment proposed by the Tulalip Tribe and particularly Commissioner Graham's comments. The Upper Skagit Tribe was the first to propose having a nonprofit table for charitable fundraising that has now been adopted by many other tribes. The reason for introducing it was to offset the impact on nonprofit/charitable fundraising activities within their local area. It raises goodwill with the community neighbors and is good policy. The Tribes created a fund from that nonprofit table dedicated solely for that purpose. Each year the Tribe would allocate a series of grants to bona fide charitable organizations that apply to the Tribe for funds. The primary purpose of Indian gaming, as viewed by the tribes, is to stimulate tribal economic development by creating jobs and training

opportunities for people on the reservation. He said the first two obligations will be met through many of their Class II and Class III operations. Their first priority is to generate governmental revenue, just as the Lottery Commission is charging to raise revenue for the state, the tribes are using their gaming to raise governmental revenue. Charity does begin at home, but it is necessary for the tribes to have a healthy home environment for that to occur. His tribe is almost entirely dependent on federal and state grants and contracts just to fund basic operations, and those funds are decreasing. The concept of a nonprofit table has a lot of potential to do away with the need for the kind of legislation proposed over the last couple of years for charity casinos. Because of the tribes' locations in rural areas, these nonprofit tables could ensure that the revenues generated by them go to charities in those rural areas. The proposed legislation would probably locate casinos in metropolitan areas with no certainty that the rural areas would receive funds. The tribes can be an important player in bringing the charity back home.

**Chairman Tull** asked if he had any public comment to make about the status of their Class III facility; **Mr. Fernando** said he has nothing to report, other than what the Tribe stated publicly in April about ceasing negotiations with the Sahara Resorts Inc, and the Tribe is searching now for both financial and management assistance and partnership. They had hoped to break ground this month and that is not going to happen.

**Chairman Tull** said there was a good discussion yesterday about the expense of Commission meetings and whether or not to change to a one-day meeting format. Discussion can continue and he asked for public comments about the places the Commission meets, the structure of the meetings, etc. **Don Kaufman** said he was concerned about having a January and an October meeting in Spokane as those months are not the best to show Spokane's assets. January has traditionally been a SeaTac meeting. **Chairman Tull** said that the January meeting is probably pretty well locked in. **Director Miller** said that is one of the problems with getting a place reserved and a contract signed; he asked if January is already booked for Spokane; **Ms. Yeager** said yes. **Chairman Tull** said that Spokane is easier to get to from the west side of the state, travel-wise. One thing being looked at is having all the Commission meetings in Olympia, which would reduce the expense involved in staffing the meetings, but would not necessarily affect commissioner-related expense and may or may not be neutral in terms of expense to those who professionally find it appropriate to attend these meetings. It may diminish the Commission's availability, but there aren't a lot of local people who come to the meetings when they are in their area. Moving the meetings around is to be more accessible and extend opportunities to all licensees to interact with Commission staff and members. It is appropriate now to take another look at the meeting procedures. He encouraged public comment at this and future meetings, and to submit written comments.

## **12. Addendum**

**Director Miller** said there is another addendum item. The first goes with the item (7) packet and is WAC 230-08-017 -- Control of Gambling Equipment. This puts inspection stamps on bingo paper and will help cover the cost of the new program. The second thing it does is add the issue of other gaming equipment, which will be inspected for review. The cost of the review, inspection and possibly the cost of a stamp will be charged. The next three rules in item (12) deal with regulation of disposable bingo cards and are for daily records, WAC 230-08-080; WAC 230-30-105 is inventory control records for disposable bingo cards; and WAC 230-08-101 is the receipting required for use of that product. These rules are accounting procedures necessary to ensure integrity in the process and a consensus has been reached. Staff is asking for filing these for discussion at this time. **Chairman Tull** asked if these rules went through the same study group process; **Director Miller** said yes. **Don Kaufman** asked for clarification on charges, collation of cards and about the number of cards this will mean. **Mr. Bishop** said a set is whatever the manufacturer determines to be a set would require a single stamp; for a collation group of fifteen-up or a six-up would all be one dollar. It would be one for each group or marketing unit; 9,000 faces times fifteen, or whatever the "up" is. **Director Miller** said it will not be one stamp for each card because that would be too tough to do. He said

this is estimated to bring in approximately \$50,000 to cover the cost of this program. If it does not bring in enough money to cover the cost, the process will be looked at again.

**Debbie Scott** said the WCCGA supports filing of these rules. **Rick Newgard**, of Seattle Junior Hockey and the WCCGA, said he was one of the licensees that met with Commission staff and he thanked Mr. Bishop, Dan Belles, Sheri Winslow and Greg Thomas for their work in the meetings on this packet. He wants to go on record as supporting this packet of rules. **Commissioner Divine** moved for filing this packet of proposed rule changes; **Commissioner Mosbarger** seconded the motion, motion carried.

**Chairman Tull** called for any other unfinished business or comments from the audience. He said the meeting will resume at 1:30PM for a hearing in this room. The appeal of the Mountlake Terrace Lions Club will be heard and will be followed by an executive session to discuss the information presented at the hearing; and then there will be another executive session on litigation, followed by a public session to announce the Commission's decision on the appeal. He adjourned the meeting until 1:30 p.m.

## **HEARING**

### **LUCKY LION BINGO, MOUNTLAKE TERRACE**

**Chairman Tull** reconvened the meeting at 1:30 p.m. **Bert Paul**, Assistant Attorney General was present on behalf of Gambling Commission. He just called the appellant's attorney, Mr. Peale, and found out from the receptionist that Mr. Peale would not be attending. She had called Mr. Paul's office this morning and left a message. **Mr. Paul** has set forth the reasons why all of the Findings of Fact and Conclusions of Law found by the administrative law judge are supported by the record, and under the applicable standards of law, he said they should be sustained.

**Chairman Tull** said this does not happen often, but there is no requirement that the appellants be present in person. The Mountlake Terrace Lions Club has requested a review, and the staff has prepared a packet of information on this case. **Mr. Paul** said he'd like to address item number seven in the Record of Review, which is the only material that was submitted for this case. **Chairman Tull** said there is no supporting memorandum from the appellant, nor any other argument. He asked the commissioners if they had questions of Mr. Paul. Hearing none, he called for an executive session to discuss the information and resolve this matter. Mr. McCoy will be present during the executive session which will immediately be followed by a second executive session in which Mr. McCoy will brief the commissioners on pending litigation. After the two executive sessions, the Commission will come back into public session only for the purpose of announcing the outcome of this case.

\*\*\*\*EXECUTIVE SESSION RECESS\*\*\*\*

**Chairman Tull** reconvened the meeting. The executive session held was for two purposes, the first being for deliberation on the appeal and the second to be briefed by Jon McCoy on pending litigation involving completely different situations. **Chairman Tull** said it is the determination of the Commission that the decision on appeal will be upheld. The order upholding the order below and the Conclusions and Findings issued in conjunction with the lower order will be available shortly. The form of order supplied needed just a slight modification because it referred to argument of counsel, of which there was none. He asked the commissioners to hang on a few more minutes so the order can be reprinted and signed now. **Chairman Tull** asked what action will take place once that is signed. **Director Miller** said he has instructed the Gambling Commission agents to serve it immediately so the Mountlake Terrace Lions Club bingo operation can be closed this evening. He also instructed the agents that, in the event they cannot be served before they open, it will be served tomorrow morning instead. **Chairman Tull** said there is no other business to be

taken this afternoon, and he adjourned the meeting and said the next meeting is in Spokane.

NOTE: THESE PRINTED MINUTES PLUS THE TAPES CONSTITUTE THE FULL MINUTES.

Susan D. Yeager  
Executive Secretary